



February 4, 2005

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## SENATE BILL No. 564

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DIGEST OF SB 564 (Updated February 3, 2005 12:37 pm - DI 87)

**Citations Affected:** IC 32-30.

**Synopsis:** Mortgage foreclosure sales. Allows a petitioner in a mortgage foreclosure sale to request an auctioneer. Requires the auctioneer to schedule the auction.

**Effective:** July 1, 2005.

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**Clark, Kruse, Broden**

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January 20, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.  
February 3, 2005, amended, reported favorably — Do Pass.

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SB 564—LS 7897/DI 103+



February 4, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 564

A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 32-30-10-9 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) A sheriff shall  
3 sell property on foreclosure in a manner that is reasonably likely to  
4 bring the highest net proceeds from the sale after deducting the  
5 expenses of the offer and sale.  
6 (b) Upon prior petition of the debtor or a creditor involved in the  
7 foreclosure proceedings, the court in its order of foreclosure shall order  
8 the property sold by the sheriff through the services of ~~an~~ **the**  
9 auctioneer **requested by the petitioner** if:  
10 (1) the court determines that a sale is economically feasible; or  
11 (2) all the creditors in the proceedings agree to both that method  
12 of sale and the compensation to be paid the auctioneer.  
13 (c) **The sheriff shall engage ~~an~~ the auctioneer not later than**  
14 **fourteen (14) calendar days after the date of the order entered by**  
15 **the court under subsection (b). ~~engaged by a sheriff under this section~~**  
16 **The auctioneer shall schedule the auction and** conduct the  
17 auctioneer's activities as appropriate to bring the highest bid for the

SB 564—LS 7897/DI 103+



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1 property on foreclosure. The advertising conducted by the auctioneer  
2 is in addition to any other notice required by law.  
3 (d) The auctioneer's fee must be a reasonable amount stated in the  
4 court's order. However, if the sale by use of an auctioneer has not been  
5 agreed to by the creditors in the proceedings and the sale price is less  
6 than the amount of the judgment and the costs and expenses necessary  
7 to the satisfaction of the judgment, the auctioneer is entitled only to the  
8 auctioneer's advertising expenses plus one hundred dollars (\$100). The  
9 amount due to the auctioneer on account of the auctioneer's expenses  
10 and fee, if any, must be paid as a cost of the sale from the proceeds  
11 before the payment of any other payment.

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SENATE MOTION

Madam President: I move that Senator Kruse be added as second author and Senator Broden be added as coauthor of Senate Bill 564.

CLARK

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## COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 564, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 8, strike "an" and insert "**the**".

Page 1, line 13, delete "Upon entry of an order under subsection (b), the" and insert "**The**".

Page 1, line 14, strike "an" and insert "**the**".

Page 1, line 14, delete "." and insert "**not later than fourteen (14) calendar days after the date of the order entered by the court under subsection (b).**".

and when so amended that said bill do pass.

(Reference is to SB 564 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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